

# SENATE BILL NO. 847

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR ESLINGER.

3687S.01I

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 578.018 and 578.030, RSMo, and to enact in lieu thereof two new sections relating to the confiscation of animals, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 578.018 and 578.030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 578.018 and 578.030, to read as follows:

578.018. 1. Any duly authorized public health official or law enforcement official may seek a warrant from the appropriate **circuit** court to enable [him or her] **the law enforcement official** to enter private property in order to inspect, care for, or [impound] **confiscate** neglected or abused animals **as set forth in such warrant**. All requests for such warrants shall be **signed, witnessed, and** accompanied by an affidavit stating the probable cause to believe a violation of sections 578.005 to [578.023] **578.025** has occurred. **All warrants shall be served in the presence of a law enforcement official**. A person acting under the authority of a warrant shall:

(1) [Be given] **Appear at** a disposition hearing before the court through which the warrant was issued, within [thirty] **ten** days of [the filing of the request] **confiscation** for the purpose of granting immediate disposition of the animals [impounded]. **No animal shall be**

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 **sterilized prior to the completion of such disposition**  
19 **hearing unless necessary to save life or relieve suffering;**

20 (2) Place [impounded] animals in the care or custody  
21 of a veterinarian, the appropriate animal control authority,  
22 [or] an animal shelter, **or a third party approved by the**  
23 **court.** If no appropriate veterinarian, animal control  
24 authority, [or] animal shelter, **or third party** is available,  
25 the animal shall not be [impounded] **confiscated** unless it is  
26 diseased or disabled beyond recovery for any useful purpose;

27 (3) Humanely kill any animal [impounded] **confiscated**  
28 if it is determined by a licensed veterinarian that the  
29 animal is diseased or disabled beyond recovery for any  
30 useful purpose;

31 (4) Not be liable for any **reasonable and** necessary  
32 damage to property while acting under such warrant.

33 2. (1) **The owner of any animal that has been**  
34 **confiscated under this section shall not be responsible for**  
35 **the animal's care and keeping prior to a disposition hearing**  
36 **if the owner is acquitted or there is a final discharge**  
37 **without conviction.**

38 (2) **After completion of the disposition hearing,** the  
39 owner or custodian or any person claiming an interest in any  
40 animal that has been [impounded] **confiscated** because of  
41 neglect or abuse may prevent disposition of the animal **after**  
42 **the disposition hearing and until final judgment,**  
43 **settlement, or dismissal of the case** by posting **reasonable**  
44 bond or security **within seventy-two hours of the disposition**  
45 **hearing** in an amount sufficient to provide for the animal's  
46 care and keeping [for at least thirty days, inclusive of the  
47 date on which the animal was taken into custody] **and**  
48 **consistent with the fair market cost of boarding such an**  
49 **animal in an appropriate retail boarding facility.**

50 Notwithstanding the fact that **reasonable** bond may be posted  
51 pursuant to this [subsection] **subdivision**, the authority  
52 having custody of the animal may humanely dispose of the  
53 animal at the end of the time for which **reasonable** expenses  
54 are covered by the bond or security, unless there is a court  
55 order prohibiting such disposition. Such order shall  
56 provide for a **reasonable** bond or other security in the  
57 amount necessary to protect the authority having custody of  
58 the animal from any cost of the care, keeping, or disposal  
59 of the animal.

60 (3) The authority taking custody of an animal shall  
61 give notice of the provisions of this section [by posting a  
62 copy of this section at the place where the animal was taken  
63 into custody or] by delivering [it] **a copy of this section**  
64 to a person residing on the property.

65 3. The owner or custodian of any animal humanely  
66 killed pursuant to this section shall not be entitled to  
67 recover any damages related to nor the actual value of the  
68 animal if the animal was found by a licensed veterinarian to  
69 be diseased or disabled **beyond recovery for any useful**  
70 **purpose**, or if the owner or custodian failed to post bond or  
71 security for the care, keeping, and disposition of the  
72 animal after being notified of [impoundment] **confiscation**  
73 **and after completion of the disposition hearing**.

74 4. **All animals confiscated under this section shall**  
75 **receive proper care as determined by state law and**  
76 **regulations for each specific animal and facility or**  
77 **organization where the animal is placed after such**  
78 **confiscation. Any such facility or organization shall be**  
79 **liable to the owner for damages for any negligent acts or**  
80 **abuse of such animal that occurs while the animal is in the**  
81 **care, custody, and control of the facility or organization.**

82           5. In the event that the animal owner is not liable  
83 for the costs incurred for the placement and care of an  
84 animal or animals while charges were pending, such costs  
85 relating to placement and care, as well as liability for the  
86 life or death of the animal and for medical procedures  
87 performed while charges were pending, shall be the  
88 responsibility of and shall be borne and paid by the  
89 confiscating agency. Such costs shall be consistent with  
90 the fair market value of boarding an animal at a retail  
91 establishment and with the usual and customary costs of  
92 veterinary medical services provided by a clinic licensed  
93 under chapter 340.

94           6. If the owner posted a sufficient bond and is  
95 acquitted or there is a final discharge without conviction,  
96 unless there is a settlement agreement, consent judgment, or  
97 a suspended imposition of sentence, the owner may demand the  
98 return of the animal held in custody. Any entity with care,  
99 custody, and control of such animal shall immediately return  
100 such animal to the owner upon demand and proof of such  
101 acquittal or final discharge without conviction. Upon  
102 acquittal or final discharge without conviction, unless  
103 there is a settlement agreement, consent judgment, or a  
104 suspended imposition of sentence, the owner shall not be  
105 liable for any costs incurred relating to the placement or  
106 care of the animal during the pendency of the charges.

107           7. Any person or entity that intentionally euthanizes,  
108 other than as permissible under this section, or  
109 intentionally sterilizes an animal prior to a disposition  
110 hearing or during any period for which reasonable bond was  
111 secured for the animal's care is guilty of a class B  
112 misdemeanor and shall be liable to the owner of the animal  
113 for damages, including the actual value of the animal. Each

114 **individual animal for which a violation occurs is a separate**  
115 **offense. Any second or subsequent violation is a class A**  
116 **misdemeanor, and any entity licensed under state law shall**  
117 **be subject to licensure sanction by its governing body.**

578.030. 1. The provisions of section 43.200  
2 notwithstanding, any member of the state highway patrol or  
3 other law enforcement officer may apply for and serve a  
4 search warrant, and shall have the power of search and  
5 seizure in order to enforce the provisions of sections  
6 578.025 to 578.050. **All requests for such warrants shall be**  
7 **signed, witnessed, and accompanied by an affidavit stating**  
8 **the probable cause to believe a violation of sections**  
9 **578.025 to 578.050 has occurred.**

10 2. Any member of the state highway patrol or other law  
11 enforcement officer making an arrest under section 578.025  
12 shall lawfully take possession of all dogs or other animals  
13 **in accordance with the provisions of section 578.018** and all  
14 paraphernalia, implements, or other property or things used  
15 or employed, or about to be employed, in the violation of  
16 any of the provisions of section 578.025. Such officer,  
17 after taking possession of such dogs, animals,  
18 paraphernalia, implements or other property or things, shall  
19 file with the court before whom the complaint is made  
20 against any person so arrested an affidavit stating therein  
21 the name of the person charged in such complaint, a  
22 description of the property so taken and the time and place  
23 of the taking thereof together with the name of the person  
24 from whom the same was taken and the name of the person who  
25 claims to own such property, if known, and that the affiant  
26 has reason to believe and does believe, stating the ground  
27 of such belief, that the property so taken was used or  
28 employed, or was about to be used or employed, in such

29 violation of section 578.025. [He or she] **The officer** shall  
30 thereupon deliver the property so taken to the court, which  
31 shall, by order in writing, place the same in the custody of  
32 an officer or other proper person named and designated in  
33 such order, to be kept by [him or her] **such officer or other**  
34 **proper person named and designated in such order** until the  
35 conviction or final discharge of such person complained  
36 against, and shall send a copy of such order without delay  
37 to the prosecuting attorney of the county. The officer or  
38 person so named and designated in such order shall  
39 immediately thereupon assume the custody of such property  
40 and shall retain the same, subject to the order of the court  
41 before which such person so complained against may be  
42 required to appear for trial. **If the property includes**  
43 **animals, the placement of the animals shall be handled in**  
44 **accordance with the provisions of section 578.018.** Upon the  
45 conviction of the person so charged, all property so seized  
46 shall be adjudged by the court to be forfeited and shall  
47 thereupon be destroyed or otherwise disposed of as the court  
48 may order. In the event of the acquittal or final discharge  
49 without conviction of the person so charged, such court  
50 shall, on demand, direct the delivery of such property so  
51 held in custody to the owner thereof.

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